

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 5791/2017

1. Nanagi Devi W/o Late Chhitar Mal, R/o Village Nandiwali Dhani Near Murgi Farm, Hathoj, Jaipur
2. Hanuman Sahai Jat S/o Late Chhitar Mal, R/o Village Nandiwali Dhani Near Murgi Farm, Hathoj, Jaipur
3. Ramprasad @ Ramprakash S/o Late Chhitar Mal, R/o Village Nandiwali Dhani Near Murgi Farm, Hathoj, Jaipur
4. Tarachand S/o Late Chhitar Mal, R/o Village Nandiwali Dhani Near Murgi Farm, Hathoj, Jaipur
5. Rakesh S/o Late Chhitar Mal, R/o Village Nandiwali Dhani Near Murgi Farm, Hathoj, Jaipur

----Appellants

Versus

1. Mukesh Kumar S/o Shankar Lal, Vinobapuri, Bassi Naga, Thana Jobner Tehsil Lera Distt. Jaipur Driver
2. Banwari Lal Verma S/o Shankar Lal Verma, R/o A-137, Greenpark, Nirwaru Road, Govindpura Thana Kardhani, Jaipur Owner
3. The New India Insurance Company Limited, Through Senior Divisional Manager, Divisional Office, M.i. Road, Jaipur Insurance Company Of Vehicle

----Respondents

For Appellant(s)	:	Mr. Ram Sharan Sharma
For Respondent(s)	:	Mr. Om Prakash Gupta

JUSTICE ANOOP KUMAR DHAND

Order

10/02/2026

1. By way of filing the instant appeal, a challenge has been led to the impugned judgment and award dated 18.07.2017, passed by the Motor Accident Claims Tribunal No. 2, Jaipur Metropolitan (for short, 'Tribunal') in MAC No. 221/2015, by which a

compensation of Rs. 5,18,808/- has been granted in favour of the appellants-claimants (for short, 'the claimants').

2. Feeling aggrieved and dissatisfied by the aforesaid amount of compensation awarded by the Tribunal, the instant appeal has been preferred seeking enhancement of the same.

3. Counsel for the claimants submits that the husband of the claimant No. 1 who was also the father of the claimant Nos. 2 to 5 met with an accident on 09.12.2014 when he was crossing the road and all of a sudden a car bearing No. RJ-01-CA-7299, being driven recklessly by the respondent No.1, struck him and caused an accident due to which he sustained multiple injuries and died. Counsel submits that on account of death of the deceased, a claim petition was submitted by the claimants before the Tribunal. Counsel submits that the Tribunal has treated the deceased as unskilled labour and determined his monthly income for 26 days in a month while the same should have been considered for 30 days in a month. Counsel further submits that the total number of dependents were five in number, hence the deduction of 1/4th was applicable but the Tribunal has applied the deduction of 1/3rd while determining the compensation awardable to the claimants. Counsel submits that even under the head of loss of consortium a meager amount of Rs. 1,50,000/- has been awarded, hence the same needs to suitably enhanced to the tune of Rs. 40,000/- for each claimant in terms of the directions issued by the Hon'ble Apex Court in the case of **NIC Vs. Pranay Sethi**, reported in **2017 (16) SCC 680**. Counsel submits that the age of the deceased was 60 years at the time of accident, hence the

claimants are entitled to get an additional 10% under the head of loss of future prospects in light of the directions issued by the Hon'ble Apex Court in the case of **Pranay Sethi** (Supra).

4. Heard and considered the submissions made at Bar and perused the material available on record.

5. Perusal of the record indicates that the income of the deceased was assessed as per the notification issued by the Department of Labour, Government of Rajasthan for a period of 26 days in a month but as per the judgment passed by this Court in the case of **Nandu Devi and Anr. Vs. Sohan Lal and Ors.** (S.B. Civil Misc. Appeal No. 769/2019, decided on 23.02.2022), the monthly wages of the deceased should have been considered for 30 days in a month.

6. As per the proposition of law as propounded by the Hon'ble Apex Court in the case of **Pranay Sethi** (Supra), all the dependents of the deceased are entitled to get compensation of Rs. 40,000/- each under the head of loss of consortium but in the instant case, a lump sum amount of Rs. 1,50,000/- has been awarded under this head to the claimants. Hence, the claimants are entitled to get Rs. 40,000/- each under this head in terms of the judgment passed by Hon'ble Apex Court in the case of **Pranay Sethi** (Supra). Similarly, looking to the fact that at the time of the accident, the age of the deceased was 60 years, the claimants are entitled to get an additional 10% towards loss of future prospects in terms of the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (Supra). Lastly, the claimants were in all five in number, hence a deduction of 1/4th would be applicable in

terms of the judgment passed by the Hon'ble Apex Court in **Sarla Verma & Ors. vs Delhi Transport Corp.& Anr**, reported in **(2009) 6 SCC 121** but the Tribunal, without any basis, has erroneously ordered for deduction of 1/3rd instead of 1/4th while determining the compensation amount.

7. Considering the overall facts and circumstances of the case, the claimants are entitled to get following enhanced amount as reproduced in the table hereunder:

Monthly Income (along with additional 10% for loss of future prospects)	$189 \times 30 + 189 \times 30 \times 10/100$ $= 5670 + 567$ $= \text{Rs. } 6,237/-$
Deduction for Personal and Living Expenses	$\text{Rs. } 6,237 - \text{Rs. } 6,237 \times \frac{1}{4}$ $6237 - 1559.25$ $= \text{Rs. } 4,677.75$
Annual Income	4677.75×12 $= \text{Rs. } 56,133/-$
Multiplier to be applied	9 $56,133 \times 9$ $= \text{Rs. } 5,05,197/-$
Loss of Consortium	$40,000 \times 5$ $= \text{Rs. } 2,00,000/-$
Funeral Expenses	$\text{Rs. } 15,000/-$
Total Compensation Awardable	$\text{Rs. } 7,20,197/-$
Less compensation awarded by the Tribunal	$\text{Rs. } 5,18,808/-$
Enhanced Compensation	$\text{Rs. } 2,01,389/-$

8. The appeal accordingly stands partly allowed and the impugned award passed by the Tribunal stands modified to the extent that the appellants-claimants are entitled to get a further sum of Rs.2,01,389/- by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

9. It is further ordered that out of the enhanced amount a sum of Rs.1,00,000/- be deposited in the Savings Bank Account of the

claimants and the remaining amount be deposited in a fixed deposit with any Nationalized Bank initially for a period of three years and the interest accrued on the said amount shall be paid to the claimant on monthly basis.

10. The respondents are directed to deposit the enhanced amount within a period of four weeks from today with interest @ 6% per annum from the date of filing of the claim petition.

(ANOOP KUMAR DHAND),J